

Bureau of Indian Affairs, Interior

§ 170.439

(c) The Secretary may not reduce funding for or reschedule a project that is the subject of a negotiated agreement, except under the terms of the agreement.

(d) BIA amends the IRR TIP using the same public involvement process used to develop the original IRR TIP.

§ 170.428 How is the State Transportation Improvement Program related to the IRR TIP?

The annual update of the IRR TIP for each State in a BIA regional office's service area should be coordinated with the State transportation agencies. This will ensure that approved IRR TIP updates and amendments are included with the STIP.

PUBLIC HEARINGS

§ 170.435 How does BIA or the tribe determine the need for a public hearing?

The tribe, or BIA after consultation with the appropriate tribe and other involved agencies, determines whether or not a public hearing is needed for an IRR TIP, long-range transportation plan or project. A public hearing must be held if a project:

- (a) Is a new route or facility;
- (b) Would significantly change the layout or function of connecting or related roads or streets;
- (c) Would cause a substantial adverse effect on adjacent property; or
- (d) Is controversial or expected to be controversial in nature.

§ 170.436 How are public hearings for IRR planning and projects funded?

(a) Public hearings for IRR planning are funded as follows:

- (1) Public hearings for TTIPS and long-range transportation plans conducted by tribes are funded using the funds defined in title 23 U.S.C. 204(j) or IRR Program construction funds; and
- (2) Public hearings for a tribe's long-range transportation plan conducted by BIA at the tribe's request are funded using the tribes' funds as defined in title 23 U.S.C. 204(j) or IRR Program construction funds.

(b) Public hearings for IRR projects conducted by either tribes or BIA are funded using IRR Program construction funds.

§ 170.437 How must BIA or a tribe inform the public when no hearing is held?

(a) When no public hearing for an IRR project is scheduled, either the tribe or BIA must give adequate notice to the public before project activities are scheduled to begin. The notice should include:

- (1) Project location;
- (2) Type of improvement planned;
- (3) Dates and schedule for work;
- (4) Name and address where more information is available; and
- (5) Provisions for requesting a hearing.

(b) If the work is not to be performed by the tribe, BIA must send a copy of the notice to the affected tribe.

§ 170.438 How must BIA or a tribe inform the public when a hearing is held?

When BIA or a tribe holds a hearing under this part, it must notify the public of the hearing by publishing a notice.

(a) The public hearing notice is a document containing:

- (1) Date, time, and place of the hearing;
- (2) Planning activities or project location;
- (3) Proposed work to be done, activities to be conducted, etc.;
- (4) Where preliminary plans, designs or specifications may be reviewed; and
- (5) How and where to get more information.

(b) BIA or the tribe must publish the notice:

- (1) By posting and/or publishing the notice at least 30 days before the public hearing. A second notice for a hearing is optional; and,
- (2) By sending a courtesy copy of the notice to the affected tribe(s) and BIA Regional Office.

§ 170.439 How is a public hearing conducted?

(a) *Who conducts the hearing.* A tribal or Federal official is appointed to preside over the public hearing. The official presiding over the hearing must maintain a free and open discussion of the issues.

(b) *Record of hearing.* The presiding official is responsible for compiling the